

COMMITTEE PRINT

MEDIGAP FRAUD AND ABUSE: HOW CAN
COMMUNITIES STOP THESE PROBLEMS?

A BRIEFING

BY THE

SUBCOMMITTEE ON HUMAN SERVICES

OF THE

SELECT COMMITTEE ON AGING
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION



SEPTEMBER 15, 1990, TOM RIVER, NJ

Comm. Pub. No. 101-777

Printed for the use of the Select Committee on Aging
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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1990

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MEDIGAP FRAUD AND ABUSE: HOW CAN COMMUNITIES STOP THESE PROBLEMS?

SATURDAY, SEPTEMBER 15, 1990

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON AGING,
SUBCOMMITTEE ON HUMAN SERVICES,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:10 a.m., in Toms River Administration Building, Washington Street and Hooper Avenue, Toms River, New Jersey, Hon. Frank Pallone, Jr. (acting chairman of the committee) presiding.

Members present: Representative Pallone.

Staff present: John P. Olinger, Staff Director, Subcommittee on Human Services.

OPENING STATEMENT OF CHAIRMAN FRANK PALLONE, JR.

Mr. PALLONE. First of all I wanted to welcome everybody to this hearing today. It is a hearing of the Subcommittee on Human Services of the House Select Committee on Aging of which I am a member.

We were to have with us today Congressman Peter DeFazio. However, because of the congressional schedule, he was not able to attend. So you are going to have me solely as the acting chairman of the committee.

I asked that the hearing be held here in Ocean County, but, of course, this issue relates to the entire third congressional district of New Jersey and the whole country. We have had a lot of complaints by senior citizens in the Third Congressional District about Medigap fraud or abuse.

I do not think I have to tell anybody in this room, because I know a lot of the people that are here today are people who have been involved in senior citizen activities as leaders within the senior community.

There are many people out there who are buying too much insurance who basically have not only Medicare coverage but extra coverage, in some cases, many policies. And that is basically the concern that we have, that too many people are either being lured into or just on their own accord decide that they want to buy a number of supplemental Medicare insurance policies and often times it is simply not necessary. Perhaps one, or maybe even two policies are necessary in some circumstances. But not as many as so many people have been getting involved with.

I have a written statement that I wanted to go through. Since the passage of the Baucus Amendments in 1980, Congress has attempted to regulate the sale of Medicare supplemental insurance policies, also known as Medigap.

And although many of these policies provide low-cost supplemental insurance to Medicare beneficiaries, many Medigap policies offer duplicative and in some cases worthless benefits. And unfortunately, few states properly regulate this industry to ensure that senior citizens are not being ripped off.

Now, this insurance is in some ways no different than any other insurance. The primary regulation is by the state. New Jersey is one of the handful of states that has aggressively sought to curb abusive and fraudulent sales practices, poor tactics, and sales of duplicative policies, but nonetheless, the problems continue to occur.

A piece of legislation that is part of the discussion today is H.R. 4840, which I co-sponsored, called the Medigap Fraud and Abuse Prevention Act of 1990. A number of senior citizens have written to me about this and said that they think it is a good step in the right direction to try to solve the problem.

The bill requires Medigap insurers to offer certain basic core benefits and prohibits them from offering duplicative benefits. Additionally, it requires Medigap insurers to fully explain all policy benefits including the actual cost for any optional benefits to all beneficiaries.

Now, obviously a big component of trying to deal with the abuse and the fraud is education. And in many ways we are trying to stress that today and some of the speakers will talk about education. The need to get the community, the need to get fellow seniors involved, and basically educating each other so that we do not have people buying all these insurance policies that they do not need.

And I believe that the formation of community networks to help senior citizens through education, insurance counseling and community support services can be an essential component to putting those who prey on the elderly out of business.

We have today a number of panels. And we have two representatives of the New Jersey Department of Consumer Affairs who will be testifying about the resources available from our State government. Right here in Ocean County there is an extremely successful task force on senior victimization and elder abuse which will also be part of the discussion.

There also have been a series of reports that have come out. Some of you may have seen in July—in fact, it was again referred to by a number of seniors, some of the people in this room—an editorial and a series of articles in the Asbury Park Press about Medigap fraud. Specifically in the editorial they urged the adoption of the legislation in the Medigap Fraud and Abuse Prevention Act.

One of the other concerns that we have is the fact that since the catastrophic case legislation was repealed, and I favored the repeal, there has been a large increase in Medigap insurance policies. And there is a report that we are also going to discuss today by the General Accounting Office, which is the investigative arm of Congress, that found that rate increases for Medigap averaged nearly 20 percent this year. So we are not only talking about duplication,

we are also talking about the fact that costs have gone up for a lot of these policies as well.

I do not want to talk any longer because I do want to get to the panel and I know that is what a lot of you came here to hear, so we will get right into it.

[The prepared statement of Mr. Pallone follows:]

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Congress of the United States
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STATEMENT OF FRANK PALLONE, JR.
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Since the passage of the Baucus Amendment in 1980, Congress has attempted to regulate the sale of Medicare supplemental insurance policies, also known as "medigap". Although many of these policies provide low cost supplemental insurance to Medicare beneficiaries, many medigap policies offer duplicative, and in some cases worthless, benefits. Unfortunately, few states properly regulate this industry to ensure that senior citizens are not being ripped off.

Although New Jersey is one of a handful of states that have aggressively sought to curb the abusive and fraudulent sales practices, cases of misrepresentation, scare tactics, and sales of duplicative policies continue to occur. Part of the solution is to further tighten the standards for the sale of medigap policies.

I am a cosponsor of H.R. 4840, the Medigap Fraud and Abuse Prevention Act of 1990. H.R. 4840 would require medigap policies to meet certain federal standards. The bill requires medigap insurers to offer certain basic core benefits and prohibits them from offering duplicative benefits. Additionally, it requires medigap insurers to fully explain all policies benefits, including the actual cost for any optional benefits, to all beneficiaries.

Although I think that H.R. 4840 represents an important start in putting these sleazy medigap salesmen out of business, I believe that the formation of community networks to help senior citizens through education, insurance counseling, and community support services can be essential components to putting those who prey on the elderly out of business.

Educating senior citizens is a vital component. Although New Jersey has made great strides in regulating the medigap insurance market, disreputable insurance companies and sleazy salesmen seem to find new ways to defraud senior citizens of their meager incomes. The Health Care Financing Administration, which operates the Medicare program, recently joined with the National Association of Insurance Commissioners in publishing a guide for senior citizens buying medigap insurance. Two representatives of the New Jersey Department of Consumer Affairs will be testifying today about the resources available from our state government.

Insurance counseling services and other community support services are also important in protecting senior citizens from medigap fraud. Right here in Ocean County, there is an extremely successful Task Force on Senior Victimization and Elder Abuse which works closely with senior citizens to stop those who see the elderly as easy marks. Among the many services available to senior citizens, the task force provides free insurance counseling.

Twenty five years ago, the federal government made a promise through the enactment of the Medicare and Medicaid programs -- to protect the health of its citizens. Today, rising health care costs and budget constraints threaten that promise as never before. Medigap insurance was not part of this formula when Medicare was enacted; however the fraud and abuse associated with these policies threaten the integrity of the Medicare program.

Mr. PALLONE. At this time, I would like to insert for the record the statement of the honorable Congresswoman Louise M. Slaughter. Hearing no objections, so ordered.

[The prepared statement of Representative Slaughter follows:]

Statement of Congresswoman Louise M. Slaughter
to a field hearing of
The Select Committee on Aging
Subcommittee on Human Services

Louise Slaughter

"Medigap Fraud and Abuse: How Can Communities Stop This Problem?"
September 15, 1990
Tom's River, New Jersey

By calling for this field hearing of the Subcommittee on Human Services, my colleague, Representative Pallone, focuses the attention of the federal government on a growing menace to this country's senior citizens: Medigap fraud and abuse. I am grateful for the opportunity to learn about community efforts to protect seniors from Medigap fraud in Tom's River and am hopeful that the information gathered by this hearing will help Congress shape federal legislation to deal with this problem.

When Congress repealed Medicare Catastrophic Coverage, we left many older Americans confused about what Medicare covers and which gaps they would have to fill with supplemental, or Medigap, insurance coverage. A recent survey by AARP found that more than one and a half million senior citizens are wasting, in aggregate, roughly one billion dollars each year on excessive and duplicative Medigap policies.

Hearings in both the House and Senate this Spring made startling revelations about the vulnerability of older Americans to fraudulent and unscrupulous Medigap insurance agents. In February, the Senate Special Committee on Aging heard from a number of senior citizens who had fallen victim to the confusing claims and intimidating sales tactics of a Medigap insurance agent and purchased multiple, duplicative, and costly supplemental

health insurance policies. A former insurance agent in Florida who had been convicted of defrauding elderly clients testified, "I learned how to intimidate, force, manipulate, frighten and lie to people. We were taught to lie about who we represented, what we represented, what the policies paid, what the waiting periods were." Early in May, at a hearing of the Energy and Commerce Committee, Chairman Dingell found that this same potential for fraud, abuse and over-insurance exists in the long-term care insurance market.

At the same time that fraud and abuse appear to be a more common problem in the Medigap insurance industry, the premiums of Medigap policies continue to rise. Senior citizens living on a fixed income can ill afford worthless or duplicate coverage, and yet many have shoe boxes full of these policies. This is a nation wide problem.

Fifteen percent of Medicare beneficiaries who responded to a 1989 telephone survey by the Health Insurance Association of America said they had two or more Medigap insurance policies. A similar study by the American Association of Retired Persons found that 24 percent of those surveyed had two or more policies in addition to Medicare. Forty-three percent of those people had purchased their policies through the mail, responding to confusing brochures and celebrity endorsements on television.

The cost of these multiple policies is great, and they are likely to be duplicative. In 1989, the average annual premium was \$718. In 1990, the General Accounting Office reports, the mean annual premium for Medigap policies has risen to \$840. At this

rate, few senior citizens will be able to keep up their coverage.

Who will protect senior citizens from wasting precious financial resources on useless, duplicative insurance policies? Our best weapon against deceptive practices by Medigap insurance agents is an informed elderly population.

To date, the federal government has not provided consumer counseling services for elderly Americans, and it is high time that we started. Recognizing that older Americans are particularly vulnerable to problem of over-insurance and yet are often the least able to afford useless insurance, I have introduced the Older Americans Health Insurance Counseling Amendments of 1990 (HR 4994) to authorize under the Older Americans Act the establishment and funding of important consumer counseling programs for seniors. Such programs would help Medicare beneficiaries understand their Medicare coverage and assess their need for Medigap and long term care insurance.

This legislation has been cosponsored by Congressman Pallone, Congresswoman Saiki and Chairman Tom Downey, all members of the Subcommittee on Human Services. I am grateful for their support of this initiative and am hopeful that our other colleagues on the Select Committee on Aging will join in the effort to provide health insurance counseling through the Older Americans Act. Until we are able to provide comprehensive health care coverage, the federal government has a responsibility to help seniors understand the coverage they do have and to protect them from paying for more than they need. This will certainly be an important issue as the 102nd Congress reauthorizes the Older Americans Act in 1991.

Mr. PALLONE. The first panel we have are two private citizens from Toms River, Mr. and Mrs. John Hand, and Mrs. Hand is a victim of Medigap fraud and basically is going to explain to us what happened to her.

So we would like you to come up now please. You might as well sit right there where the microphone is.

I should explain to everybody that this is being recorded as an official transcript that will be available as an official congressional hearing so that is why we have the reporter, Mr. Ed McCann, and that is why I would like you to sit there.

STATEMENT OF MRS. JOHN HAND

Mrs. HAND. Back on July of last year I received a package at my house that came from a care center in Deptford, New Jersey. I happened to notice on the box that the shipment had come from Virginia to Deptford, so I got on the phone and I found out what the number was of the place in Deptford and I called up. They said I was entitled to all this stuff that I was getting and I would not get billed by Medicare at all or by anyone else.

So I thought maybe it was something really wrong with my husband, not that it was, so I went down and I got a meeting with my doctor and he said that was nothing there that he had sent. He said "there is nothing wrong with your husband."

The next day I received two great big boxes. One with a wheelchair in it and one with a commode in it. The other box had different instruments, the pillows and instruments that I could not even use. I believe a doctor could use.

So I called up Medicare and I told them and got no answer from them. Then finally I started getting checks from Blue Cross and Blue Shield. And I called them up and they said, "Oh, don't worry about it. You are going to get a bill from your doctor." I said, "I am not getting a bill from my doctor because my doctor did not order these things."

Well, I went to the Better Business Bureau. I did not know where. Chamber of Commerce, nothing. Nobody could help me.

I happened to see a notice in the paper from this man from Ohio and they had gotten in touch with Congressman Pallone. So I called his office and I told him what I had had. And they came up to my house. I was surprised to see Congressman Pallone there. I expected Jim there. But——

Mr. PALLONE. Jim was there too.

Mrs. HAND. Yes. But they saw what I have. Up until then, I got \$1300 in checks from Blue Cross and Blue Shield. Congressman Pallone went up to Blue Cross and Blue Shield and told them what was going on, and I returned the checks to him and he returned the checks to Blue Cross and Blue Shield, which I have since then received a letter from Blue Shield telling me that you had turned the checks over and thanked me for bringing their attention to it.

And how many cases they said they did not know that was involved in this. I still have the stuff at my house. Nobody has come to take it and that is where it is going to stay. I have loaned out a few of the things for people that needed it in the community but it

is in the house yet. But I got parts there that I do not know what they are. And only a doctor could use them.

Mr. PALLONE. Okay. Your husband is not here, is he?

Mrs. HAND. My husband just had a mini-stroke.

Mr. PALLONE. Oh, I am sorry. I did not know that.

You were a victim of what we found to be a widespread phenomenon, though, that a number of people are being sent materials unsolicited.

Mrs. HAND. Right.

Mr. PALLONE. Equipment, various apparatus, which they simply do not need. Now, the interesting thing—I mean there are a lot of interesting things about it—but the one that in some ways made it most significant is the fact that you were concerned about it and you reported it, because the way I understand it, and you correct me if I am wrong, unless you decided that you wanted to return this or return the checks, there is really no incentive for you to do so. Am I correct?

Mrs. HAND. That is right.

Mr. PALLONE. Because actually everything is paid for. You do not have to make any additional payment whatsoever.

Mrs. HAND. No.

Mr. PALLONE. And we suspect that it is a very widespread phenomenon. In fact, some of the companies that have been involved in these practices actually have been investigated both on the Federal and state level and are now having suits, civil actions, being brought against them. And hopefully, we will uncover some of the problems and see what more can be done.

I wanted to ask you, in terms of any kind of coverages, the main coverage that you have is under Blue Cross and Blue Shield, other than Medicare, right?

Mrs. HAND. Medicare and Blue Cross and Blue Shield.

Mr. PALLONE. So basically they were being paid for in part by Medicare and in part by your Blue Cross/Blue Shield?

Mrs. HAND. So instead of sending those checks to the place, they sent them to me, Blue Cross and Blue Shield did. And that is how I happened to get that \$1300.

Mr. PALLONE. But there was also payment that was coming from Medicare as well.

Mrs. HAND. Well, I do not know because I never received no letter from Medicare.

Mr. PALLONE. You did not receive it. But presumably there was. Interesting.

Did you find other people in the community that had similar problems?

Mrs. HAND. I know someone, yes, sir.

Mr. PALLONE. Was it the same type of thing, the same company, or—

Mrs. HAND. That I could not tell you. That I could not tell you if it was from the same company. But the one big box that I got first, they got the same thing.

Mr. PALLONE. Now, one of the problems we had talked about also was with regard to the physicians signing the documents, because was it not necessary for the physicians or at least someone in the physician's office to actually approve it some way?

Mrs. HAND. That is the way it should be.

Mr. PALLONE. But it was not done in your case.

Mrs. HAND. As far as I know, it was not. I met with my doctor, because I had told him to be down at his office at 5 o'clock and I said I wanted to know because I thought maybe there was something more wrong with my husband and he was not telling me at the time.

Mr. PALLONE. But they had no knowledge of it?

Mrs. HAND. He had no knowledge of it.

Mr. PALLONE. They never received a call or anything?

Mrs. HAND. No.

Mr. PALLONE. To indicate that they had to authorize it.

Mrs. HAND. That is right.

Mr. PALLONE. I know one of the things that has been suggested is that in dealing with some of this equipment, it would be more controlled by a physician, your own personal physician.

Mrs. HAND. Right.

Mr. PALLONE. In terms of what can be ordered and what cannot. But you were not even solicited by phone or anything.

Mrs. HAND. No, no.

Mr. PALLONE. It just arrived.

Mrs. HAND. No. It just arrived.

Mr. PALLONE. Okay. Well, the thing I wanted to say—and I have said it publicly before—is that if a situation like this arises, we really do need to have people like yourself who will respond to us and call us up. And there have been other cases as well because if the individuals like yourself do not call my office or report it to somebody, we will never have any knowledge of it.

I think after I came to visit you, we put something in the paper about calling our office or a number in case you do get this kind of equipment that you have not asked for. Otherwise there is no way that we are going to know.

So I just want to commend you for reporting it to us and bringing it to our attention. You are a good citizen.

Mrs. HAND. Well, I had such a funny feeling because the other party that I know that got the same stuff went to the community hospital and it got me so involved that I thought, gee, maybe somebody is working with Medicare and getting all this stuff, you know, together.

Mr. PALLONE. Yes. But there was not any indication of that.

Mrs. HAND. I do not think it worked that way.

Mr. PALLONE. All right. Well, thanks again. Thanks for coming today. I appreciate it.

Mrs. HAND. Okay, thank you.

Mr. PALLONE. I hope your husband feels better.

Okay. Next we have Mr. Richard Chalfant who is a member of the Task Force on Senior Victimization and Elder Abuse.

I guess you are going to tell us. Is that a state or is that a county—

Mr. CHALFANT. That is a county organization, Congressman.

Mr. PALLONE. Thank you for coming, Mr. Chalfant.

Mr. CHALFANT. As a matter of fact, our next meeting is Thursday in this room.

Mr. PALLONE. Great.

Voice. My daughter-in-law's father was sick and three salesmen were going to the house—that was up in north Jersey.

Mr. PALLONE. Okay. Well, this is what I am hoping—excuse me for interrupting, but this is what I am hoping, is that we can find out about a lot more of these cases, so what I want is that you talk to Mr. McCann and we get some information about that. Jim McCann, who is sitting over there next to the Reporter is my district representative at the Fischer Boulevard office in East Dover, and before you leave, if we get the information to him, I would appreciate it.

STATEMENT OF RICHARD D. CHALFANT, TASK FORCE ON SENIOR VICTIMIZATION AND ELDERLY ABUSE, OCEAN COUNTY POLICE DEPARTMENT

Mr. CHALFANT. I would like to say starting out that once upon a time there was a senior citizen and an insurance man and here I am.

Mr. PALLONE. Okay.

Mr. CHALFANT. And just parenthetically, very quickly, you mentioned in the article in the Asbury Park Press. Ames Alexander who wrote that article and another article the same day, if you check the article, you will see my name in there three or four times because he called me. I was on the phone with him probably 10 times.

Mr. PALLONE. I did indeed. That is how I got your name.

Mr. CHALFANT. As a matter of fact, I think he owes me something. Anyhow. It is my understanding that this committee has been convened to consider the problem of fraud and deception on Medicare supplement insurance sales.

Now, Mrs. Hand is a little different situation but it still is within our purview I guess.

Further, this subcommittee's concern seems to be what local communities can do to combat this condition. Now, in my view, there are really four sources of deception or misinformation currently in existence. I will describe the four as I see them.

The first is agents deceiving people. This is the most obvious. It involves a very small percentage of all agents, and I will mention that in a minute. I would like to elaborate.

Number 2, is people deceiving insurers. There are a lot of people who will buy two or more policies often without consulting anyone else. And more about this.

Unintentional deceiving of consumers by well-meaning and perhaps overprotective state insurance departments.

And journalistic deception. I have mentioned this to Ames a couple of times. Reporters concentrating on the negative. Bad news sells papers.

For the past 5 years I have been volunteering at "Somebody C.A.R.E.S., Incorporated" in Crestwood Village and I will mention that more. I also work closely with the Task Force on Elder Abuse. I have been a member for about 4 years I think. And with police departments and with the county and municipal agencies.

The number of reported cases of fraud has been small. If people know that they have been bilked, which is rare, they will not

report it. Why? In some cases, they are afraid of reprisal by the agent and in others they are too embarrassed to say anything. One woman was sold 6 policies by the same agent. She would not even let the investigation officer sign the complaint. She said it was her own fault for being so dumb, she deserved to have that done.

Another victim was told by her nephew, who, by the way, was a self-appointed expert on everything, that she should not sign a statement which Lt. Mindak's transcriber had a tape recorded statement from this woman and her nephew said, "Well, if you sign that, you can be sued for telling the truth." Brilliant.

Mr. PALLONE. I know people——

Mr. CHALFANT. Now, the number of unethical or downright dishonest agents—I have been quoted in the paper and other places as saying there may be less than a dozen agents who are responsible for 95 percent of the problems that we have in Ocean County. I do not know about others. The only ones that I deal with are Monmouth and Ocean. And I can tell you that——

Mrs. Hand, I believe you said Keyport was where this stuff came from?

Mr. PALLONE. Deptford.

Mr. CHALFANT. Oh, Deptford.

Mr. PALLONE. Yes.

Mr. CHALFANT. Because the name Keyport rings a bell.

Since these cases go unreported, people in the State Department of Insurance are powerless to do their job. They cannot do it unless we get a report.

Now, number 2, there is a small number of people, and I counsel, by the way, I spend probably 25 to 30 hours a month counseling at C.A.R.E.S. and other places and I get reports about people who have bought several supplement policies, usually by mail, in order to submit claims to more than one insurer. One fellow bragged to his neighbors that he was collecting from two or three different companies for the same claim.

Now, the next statement is an educated guess. I feel that some governments are being overprotective, state governments. And I define a top-of-the-line policy as one which is guaranteed renewable and will pay some or all of the billed amounts above Medicare's approved amount. Many companies that issue such policies pay high first-year commissions. Now, in an apparent effort to prevent twisting, certain companies have been unable to get approval, at least in this State, for new contracts. The result is the implication these companies are somehow unscrupulous and should be kept out of New Jersey and perhaps other states. Unfortunately, all that has been accomplished by restricting the activities of these companies is to drive these less-than-ethical agents into selling long-term custodial care and home health care policies.

The authorities underestimate the tenacity of certain agents in continuing somehow to earn big money by high pressure or lies. The worst thing that has happened in the Medicare supplement field is the drastic limit on choices available to buyers of Medicare supplement insurance. Meanwhile, the dishonest agents are having a field day in the comparatively underpopulated field of long-term care policies.

Now, if they are driven out of that field, they are going to do something else. You read the paper a couple of days ago, a gang of guys up here in Lakewood with the telephone sales of water purification systems. I know a couple of those guys by reputation and at least one of them is a former insurance man. If a guy is going to be a crook, he is going to be a crook no matter what business he is in.

We are all familiar with this saying of "Bad news sells papers" and it also sells advertising on the 6 o'clock TV news.

I would like to ask for more balance in reporting. In one 3-page article a while back there was one sentence mentioned that most agents are honest. Now, one sentence out of a 3-page article is not very much balance to me.

And now comes the part that I have rewritten more times than I can compute, and I come from the school of thought that says if you are not a part of the solution, you are a part of the problem. So I would like to make a couple of suggestions. One suggestion is to throttle that guy.

Now comes the part, the good part. First I suggest the enforcement of existing laws. Now, there is already in existence something which you mentioned, Congressman, in your article there about informing people as to what they are buying. There is already in existence a law which says that you must give each buyer an outline of coverage. Now, I have run into cases, quite a few cases, in Crestwood and in other places, I have run into quite a few cases where people have come in and they never got an outline of coverage. They need to have one. It is the law.

Mr. PALLONE. Is it state legislation or is it—

Mr. CHALFANT. It is state legislation. Well, all sources use it. As you have mentioned, all of this is state legislation.

There is a Federal law, however, which says that anyone—it makes it illegal to knowingly sell a policy which duplicates present coverage unless that policy pays in addition to the existing policy.

Now, I would also suggest that if there is no law currently in existence, that there should be legislation against people submitting more than one claim for the same illness to more than one company because this is upping your costs because if the company has to pay out more claims than it needs to pay out, it is going to cost you more.

The second thing is education, which you mentioned before. People do not know where to go for help.

Mr. PALLONE. They do not.

Mr. CHALFANT. One thing they do is to ask the agent who sold them their policy, or sometimes several, and this is like asking a fox to look after the hen house. In any confidence game, the mark is bled for as much as he or she has in the bank. I have seen cases where the agent has told the client that he was filing their claims for them. Now, actually they had a policy with a company that has a contract with Medicare where Medicare automatically files the information with the insurance company. I know because I own the same policy. Now, the agent used this apparent good service idea to gain the person's confidence and he sold this client, an 83-year-old woman, 5 more policies for a total outlay of over \$4200. When I sent the Manchester police over to see her, she refused to allow them to file a complaint because she said it was her own fault. And

meanwhile, she called the agent she bought the policies from and asked him if he thought it was okay if she dropped some of the policies.

One problem is that she told them that she had been to see me and he said something to one of his friends about, "That SOB again." That is good. I am glad they call me that. I would like to have that reputation among the crooks.

Now, one problem is that people have been conditioned over the years. You buy life insurance. The more life insurance you have, the better it is for your beneficiary. People get conditioned to the idea that more is better. That is not true in Medicare insurance, in any health insurance.

My primary business is small group health insurance. I am district manager of the Chamber of Commerce Health Insurance Program for Small Businesses. And I run into this all the time. I am constantly telling people in my newspaper column and in the speeches that I give that they need one good policy. That is it. No more.

Now, in too many cases, people have bought mail-order Medicare supplements from two or more companies. Now, not only can they only legally collect on one of those, but state authorities cannot regulate mail order sales. You buy a mail order policy, your state insurance department cannot protect you. That leaves the policyholder with no protection at all.

Now, there is an organization called S.C.O.R.E., which is made up of retired business people. I would respectfully suggest that a similar organization composed of retired insurance agents or managers can serve a similar function. Now, my own case, I am not retired, but I give 25 or 30 hours a month to volunteer work and I have found it very rewarding. I have been doing it for 5 or 6 years now. Since I am over 65, people sometimes are more likely to listen to me than to a younger fellow.

Now, I am not setting C.A.R.E.S. as a model. Somebody C.A.R.E.S., Incorporated, is in Crestwood Village in Manchester. We are the largest all-volunteer privately funded organization in the state, perhaps in the country. We have had all kinds of awards. We have been written up by Dr. Norman Vincent Peale. We are pretty well known.

You should know that we are privately funded and an all-volunteer staff. In fact, this lady here, who is going to be my wife a month from now, is going to be the next director of C.A.R.E.S. She is now Executive Aide to the Director of C.A.R.E.S.

Now, insurance advice is about one of about a dozen different services that we provide. If we in Crestwood can do it, and we are not rich. People think because you live in Crestwood you are rich. I would like to be able to point out the number of people out there that are living just on Social Security alone.

But if we can do it, other people in this community and in other communities in the country could do the same thing. And the most important recommendation that I can make, Congressman, is this. I think this could solve the problem of purchasing multiple policies, whether by mail or from an agent. If you buy a policy from an agent, the chances you are going to be cheated are a lot smaller than they are if you buy by mail.

Set up a Federal clearinghouse somewhat similar to M.I.B. M.I.B., as you may know, is the Medical Information Bureau, which is a private agency, to which hospitals and public clinics report cases of major illness or surgery, so that when you go to buy an insurance policy, they can check with M.I.B. and verify if you have any major illness or major surgery on record.

Now, the Federal Government could require every insurance company—you know, your Social Security number is already on the policy. I have represented about 22 companies or 23, and I have not seen one where your Social Security number is not required.

Now, use the Social Security number. Require every company to report the purchase of a policy or the termination of a policy due to nonpayment of premium or if you get some of the companies that people buy policies from companies like Mutual of Omaha and Blue Cross/Blue Shield that are not guaranteed renewable, if one of these policies terminates someone, they should be required to note the termination because then we could very quickly know how many policies a person has in force at the time. And if it is determined from a cross check of Social Security numbers that they have more than one policy in force, then appropriate action could be taken. A letter could be written. Someone like Jim could check on them. Or this volunteer group that I am proposing could get in touch with the people and invite the policyholder in. The volunteers could provide two things. The Speakers Bureau for education purposes. And another thing, local governments could provide them with office space just like they do with S.C.O.R.E. S.C.O.R.E. is provided office space under the Small Business Administration. What would the expense be? A desk a couple of days a month or something like that, for a few hours. But get somebody like myself who has been—I started my first job in the insurance business was in the home office of Chubb in New York in 1947. Which makes me about 39. It is not funny.

But, you know, I realize the S.H.I.P. program that we have in New Jersey is very good. The people are volunteers. They take a 2-week training course. They are excellent when it comes to filling out Medicare forms and things of that sort. I have used them myself. They are good. They are conscientious. They are hard working.

But I submit that in addition to the S.H.I.P. program, if we could get a few volunteers in each community—if you consider the number of senior citizens in Ocean County, there has got to be—I can know offhand a retired executive from Phoenix Mutual and another one from Fireman's Fund. There are people who could be volunteers—these people are ripe for volunteering, a lot of them. They are getting tired of sitting on their tail and watching television all day long. Give them something useful to do. And let us take advantage of this massive pool of talent that is available to us.

The S.H.I.P. program is not going to have much to do now anyway because with the doctors are required to fill out Medicare forms, fine. I would strongly suggest that something be done in Congress, however, to consider making it necessary or mandatory, I should say, for physicians to report to Medicare in a smaller time frame than is now mandated. As I understand it, it is 15 months

that the doctor has to send these things in to Medicare. Three months is more feasible I would think.

And just one more thing in closing is that there is a lack of communication between local, state and Federal authorities. There was one case I know of in Crestwood Village where a woman was 84 years old, was recovering from a hip replacement. She had to leave her door open so that neighbors could come and go and that her home health aide could come and go and an insurance man came in. One of these guys from Keyport came in and sat down next to her and talked her into buying an 800 and some dollar policy. Now, this policy he assured her would cover her immediately. She is in bed recovering from a hip transplant. These policies all have a pre-existing condition clause. A state permits up to 6 months in New Jersey that they are forced to wait to cover a pre-existing condition. He assured her the policy would cover her immediately. The next day she called—she read my column in the paper and called the police, the local police in Manchester. They came out to her house. They took over and made arrangements for the insurance company—the insurance company immediately when they found out the circumstances, said, “Of course we will give her her money back. We don’t permit that kind of tactics in selling our policies.” They sent her a check immediately.

Now, the State Insurance Department knows nothing about this. If the State Insurance Department had been told something about this a year ago, this guy would not have a license and he would not have been doing this for another year. This is another big fat problem. Let us get some communication going among these various agencies.

And keep in mind that there is a lot of talent out there going to waste. When you are 70 years old today, you are considered reasonably young. I am looking forward to it.

Mr. PALLONE. Thank you, Mr. Chalfant.

I want you to come back up here because I want to ask you some questions.

Mr. CHALFANT. Sure.

Mr. PALLONE. Just to elaborate on a couple of things.

Mr. CHALFANT. By all means.

Mr. PALLONE. I thought it was very informative and sheds a lot of light on the whole issue.

You mentioned the situation with reporting and I really think that that’s a big problem because as I mentioned with Mrs. Hand, although, as you said, her situation is different, it is the same phenomenon whereby there are a lot of these cases where she is getting equipment or other people that are buying too many policies and they are simply—they do not make anyone aware. You know, they do not report it to the authorities. And I am just trying to think of ways to improve that and I guess it basically comes down to the fact that people have to feel confident in the reporting agency that something would be accomplished and that there are not going to be any retaliatory measures against them. But that seems to be a very big problem.

Mr. CHALFANT. And also it would seem to me that an office like our own Office on Aging here could act as a clearinghouse in terms of telling people, “Who do I report to? Who do I tell?”

Mr. PALLONE. So you think part of the problem is that they do not even know who to report to.

Mr. CHALFANT. They do not know who to tell, who to report it to.

Mr. PALLONE. And they are also concerned—they would have to be assured that it is confidential or that in some way there would not be retaliatory measures.

Mr. CHALFANT. I think so. I feel that somebody as knowledgeable as Jim McCann might have difficulty in knowing who do I approach for this specific problem.

Mr. PALLONE. There really is not any retaliatory measures that can be brought against a person but they do not know that.

Mr. CHALFANT. Well, there is one case where a woman in Crestwood cancelled a policy because I showed her that it was not a good policy and that it was full of holes. She cancelled it and the agent came back and started giving her a hard time.

Mr. PALLONE. Oh, so that does go on.

Mr. CHALFANT. However, that is not necessary, Congressman, because any local police department—Lt. Mindak will tell you. That the county or municipal police departments have told people repeatedly, "You don't need to sign the complaint. I'll sign the complaint."

Mr. PALLONE. Oh, okay.

Mr. CHALFANT. The police will sign the complaint and the complaint can be—the complainant's name, the original complainant's name does not even have to appear.

Mr. PALLONE. Oh, that is interesting to note.

Mr. CHALFANT. People do not know this. I have tried to tell them but I am a voice in the wilderness.

Mr. PALLONE. Is there a protective service agency? In Monmouth County we have protective services for the elderly, which is an agency that deals exclusively with senior fraud or abuse.

Mr. CHALFANT. I do not know if there is one by that title in Ocean County. I know the protective service—I am a member of the New Jersey State Coalition for the Protection of Vulnerable Adults.

Mr. PALLONE. Right.

Mr. CHALFANT. Which is for disabled mentally retarded and senior citizens. And the Monmouth group is a member of that organization.

Mr. PALLONE. But you do not have a similar type agency in Ocean County?

Mr. CHALFANT. Not by name that I know of.

Mr. PALLONE. Not that deals exclusively with protecting seniors from abuse or self-neglect.

Mr. CHALFANT. We have the Office on Aging and we have the Board of Social Services. The Task Force, of course, is minimally funded. And there is really not too much that we can do except that we are, with the cooperation of the Board of Freeholders, trying to put together a video tape to go around and show at these organizations. We have a Speakers Bureau with speakers available but nobody knows about us.

Mr. PALLONE. There needs to be more publicity.

Mr. CHALFANT. I have been asked to speak once in two years. Of course, I speak about 2 or 3 times a month to other organizations,

but as far as the function of the Task Force is concerned, once in a couple of years.

Mr. PALLONE. Well, I know that when I was in the State Legislature that there was—in fact, I introduced a bill that would try to set up organizations like the Monmouth County Protective Services for the Elderly in each county or at least on a dual-county basis, but I guess that never did get passed. I think it is still something that is being talked about that has not passed.

You talked about mail order policies versus policies sold by agents. Would you say that the mail order is the biggest problem? I mean percentage-wise?

Mr. CHALFANT. In the sense that it is unregulated.

Mr. PALLONE. Okay. And that would have to be Federal regulation because it is inter-state.

Mr. CHALFANT. That would have to be Federal regulated because the ones that Lt. Mindak is going to be talking about that are advertised on television and that type of thing—Union Fidelity. Whenever you pick up a policy and it says this company is located in Trevoise, Pennsylvania, look out.

Mr. PALLONE. So the problem there is that you need Federal regulation because it is inter-state.

Mr. CHALFANT. It is inter-state.

Mr. PALLONE. Okay.

Mr. CHALFANT. And, of course, AARP also is not state regulated because they work through a national organization. So that when AARP wished to raise their premiums on their policies the end of June this year, they had to ask nobody. They simply went ahead and did it.

Mr. PALLONE. Okay. But just in terms of the overall problem with people who are buying excessive amounts of insurance, would you say that the mail order is the majority of the problem or not necessarily?

Mr. CHALFANT. Well, yes, except—well, I said to Jim McCann the other day that if we could somehow or other take about 8 or 9 or maybe even 7 or 8 agents in New Jersey and banish them to someplace or other or put them in jail or something, you could clean up the insurance business in Ocean County in one day.

Mr. PALLONE. So you really obviously believe that a big part of it is just local agents as well.

Mr. CHALFANT. Most of the problems that we have in Ocean County are with agents who are not residents in Ocean County—

Mr. PALLONE. Okay.

Mr. CHALFANT. They are agents that are in agencies that are 40 or 50 miles away—

Mr. PALLONE. And how do they gain access to the seniors here? They come into the retirement communities?

Mr. CHALFANT. They send out various types of mail things. A few months ago—or last year before the catastrophic bill was killed, they sent out a #10 envelope, a legal size envelope, that was red with big white letters on it "This is an important Medicare update that you must have."

Mr. PALLONE. So, again, it really is a mail order type of thing.

Mr. CHALFANT. The prospecting is done by mail and by telephone.

Mr. PALLONE. And then they follow up with a call.

Mr. CHALFANT. Telephone solicitors that call up and say, "We'll send somebody out to help you update and analyze and evaluate your present insurance coverage." And they send a salesman.

Mr. PALLONE. Okay. So in other words, it really is not a local—I mean it is not your neighborhood agent then. It is these people who are mail order—either sending in mail or telephoning from outside.

Mr. CHALFANT. I had a call from an insurance agent, a very plaintive call from an insurance agent from Wilmington, Delaware, wanting to know—she said, "You must have these people in Crestwood hypnotized because I came up there to sell these people a long-term custodial care policy." She traveled from Wilmington, Delaware, up here to sell insurance. It has got to be lucrative. And she said, "These people said they would not buy anything unless you looked at the policy and said it was okay to buy." I said, "Thank God."

Mr. PALLONE. Okay. Can I just bear with you a second.

Mr. CHALFANT. Sure.

Mr. PALLONE. I know that Freeholder Paul Brush has to leave, so I want to take a break, because I want to ask you some more questions. But you will be here, right?

Mr. CHALFANT. Great.

Mr. PALLONE. Is that okay?

Mr. CHALFANT. Pardon?

Mr. PALLONE. You will be here, you do not have to leave?

Mr. CHALFANT. Oh, sure.

Mr. PALLONE. All right. Could we just ask you to step down and then I will let him get up here and then I will come back to you because I have some more questions I would like to ask.

Mr. CHALFANT. Thank you.

Mr. PALLONE. Thank you.

We are just taking you out of order because I know you have another commitment.

STATEMENT OF PAUL BRUSH, OCEAN COUNTY FREEHOLDERS

Mr. BRUSH. Thank you, Congressman. On behalf of the Board of Chosen Freeholders, I want to thank you for convening this hearing on this very important subject of Medigap fraud. And I hope you will bear with the noise that is going on above us.

Mr. PALLONE. I think that Jim went out and killed the guy.

Mr. BRUSH. It sounds like. There is some extensive construction work going on on the second floor and I hope that it will not interfere with us anymore.

As I say, I want to thank you. I would like just perhaps make a few remarks from the perspective of Ocean County.

Ocean County, according to the preliminary census figures for 1990, has grown to about 430,000 in population. Roughly one third are seniors. And that would be about 130,000 people. We have approximately 110,000 residents in Ocean County who receive Social Security benefits. So this problem that you are focusing on today certainly affects a great deal of our residents in Ocean County.

It is no secret that senior citizens are the most vulnerable I believe to these types of schemes and gimmicks. Particularly folks

who live alone and do not have a spouse with them anymore and maybe do not have somebody to turn to immediately for help.

And it is the direct mail and the way the direct mail goes out and you have heard testimony on already this morning and it looks as though it is official mail from Washington and it is very scary. And we get the feeling that if we do not do something about it or act on it immediately that we may lose out. And that is something I think that maybe you can look into and see if there is not some way that can be regulated. I have a couple of suggestions which I will get to.

Now, the other thing, of course, is the TV advertising with the good guy image who is doing the announcing on television. You get a very warm and comfortable feeling with that announcer that it must be good. A lot of that is probably very legitimate sales of insurance policies. But that opens up the floodgates to the small number of illegitimate insurance agents or companies who are just trying to rip off the seniors. And they are the ones—those are the people that have to be addressed.

What can be done?

As alluded to previously, we have here in Ocean County an Office on Aging. We also have a Consumer Affairs Department. And the Office on Aging provides a lot of services and assistance and counseling, food distribution programs, things like that, for our senior citizens. And, you know, we are very proud of the Office on Aging that we have here in Ocean County. It has been widely recognized as one of the best in the state.

And the Consumer Affairs Department could take a more active role and I will look into that, in raising public consciousness of the problem of Medigap fraud. And we can certainly look into that.

You have heard from the representative of the Sheriff Department's Task Force on Senior Victimization and Elderly Abuse and you will hear more. And they are really to be commended for the work they are trying to do and perhaps you can hear the frustration in his voice when he cannot get out and reach everyone.

On the Board of Freeholders, we are trying to help them in getting a video tape produced so that they can go out into the communities and just educate people, communicate with people.

The gentleman raises the question of communication. I think it is a good point and I pledge to increase communications between—right here in the county—between the Task Force, the Consumer Affairs Department, the Office on Aging and the Board of Freeholders.

Also I think a couple of other points that I would like to make. The Congress and the Administration, as you well know, are dealing right now with a very serious budget deficit. A major, major problem. One thing that I would ask that Medicare does not fall victim to any cost-cutting measures in this effort to reduce the Federal deficit. The Medicare area is one of the last areas that we should look to to make up the deficit in the budget. And so I would carry that message to you and ask you if you would support us in that area.

Another thought came to mind. As you know, in political campaigns any literature that goes through the mail must carry a disclaimer that it is paid for by the candidate's campaign committee

or something like that. You might want to think about insurance policies or Medicare supplemental insurance policies that are solicited through the mail that perhaps there should be a disclaimer on the outside to offset, as the gentleman described, the red envelope with the white lettering scaring people into thinking that they have to open this up and that it is from the government. Perhaps a disclaimer that says, "This is not paid for at public expense." Or that "This is a private offering from the ABC Insurance Company" or whatever. It is just a thought, a suggestion, and that is the disclaimer.

The last thing I would like to mention is there is, I understand, a free-look period for the insured who purchases such an insurance policy has only a 10-day period to cancel it if they purchased it in person. It has a 30-day period to cancel it if they purchased it through the mail.

Now, as I said before, Congressman, one-third of our community here in Ocean County are senior citizens, and, heck, there is a lot more of us who will be there shortly. Many of us, most of us, were not born and raised here in Ocean County. Many of us just moved in in recent years and many of our senior citizens who have moved down here from other areas to spend their retirement years are not familiar with all the services that are available to them, such as the Office on Aging, such as the Task Force on Elderly Abuse, such as the Consumer Affairs Department.

I guess what I am saying is, I don't think 10 days for a free-look period is enough time for someone who has just made a major purchase of insurance that perhaps they do not need and suddenly realize that after a couple of weeks that maybe they finally got the chance to discuss it with a lawyer, a member of the family, who does not live with them or has finally found out where the Ocean County office is on aging. And so on. Or the Congressman's office or their legislature. I do not think that 10 days is enough time. Perhaps you might want to think about extending the free-look period to 60 days or something more reasonable to protect the consumer who buys a policy like this, that does not have to make a decision so quickly.

I know myself, if I get something in the mail or if I have some business, I may put it in my drawer and not look at it for a couple of weeks. Or I may enter into a contract or maybe I purchased an insurance policy or I go out to the store to buy something and I thought I have done something good, I have done the right thing, and I find out a couple of weeks later that, gee, I might have made a mistake. Somebody may have deceived me. So I do not think 10 days is enough time. So perhaps you might want to look at that free-look period and make it more reasonable, such as 60 days.

That is all that I have to offer. Again, I want to thank you very much for coming down here and providing us the forum to bring these questions to you and the Congress and correct this wrong.

Thank you very much, Congressman.

Mr. PALLONE. Thanks, Freeholder.

Before you get up, I know you are in a rush, but I just wanted to say a couple of things.

First of all, I am just told by Mr. Olinger, who is our staff director, that there was legislation passed 4 years ago to stop companies

from using envelopes that looked just like U.S. Government envelopes or publications. But I guess we can all agree that that has not worked because the process continues and there are a lot of things that do in fact look that way.

The other thing I wanted to mention, and I want to get back to Mr. Chalfant on this, is that one of the things that he mentioned was that a lot of the policies people are buying because of the fact—and I want to get back into this with you—that Medicare does not cover custodial care or home health care, the long-term care areas that I would like to see expanded if possible in the future.

And that reminds me about what you said, Paul, about how during this whole budget process, which we have not mentioned today, but which I did want to allude to briefly. There have been a lot of reports in the newspapers about cutbacks in Medicare or means test for Medicare or income-based surcharges for Medicare. And not being a party to the budget, I do not know exactly what they are considering. But we have certainly been hearing rumors that some of these things are in the offing. And not only am I opposed to that, and I will say that I am, but also I think it relates back to what we were discussing, because to the extent that we start cutting back on Medicare, cutting back on coverage, obviously that is what makes people feel the need to buy extra coverage—

Mr. BRUSH. Absolutely.

Mr. PALLONE. Or excessive coverage or whatever. And there is a direct link in terms of what we are discussing today.

Mr. BRUSH. Right.

Mr. PALLONE. So I appreciate what you brought to our attention and we will certainly look into some of the things that you have mentioned about disclaimers and the limits on cancellation.

Mr. BRUSH. Thank you.

Mr. PALLONE. Thanks again.

Mr. BRUSH. I appreciate you taking me out of order.

Would it be possible to get a copy of the transcript?

Mr. PALLONE. Oh, sure.

Mr. BRUSH. So I can review the rest of the discussions.

Mr. PALLONE. No problem.

Mr. BRUSH. I do have to go to another meeting.

Mr. PALLONE. Absolutely.

Mr. BRUSH. Thank you very much.

Mr. PALLONE. Sure. I understand we also have some other pamphlets there too about other hearings that have been held on the issue. So if any of you want, as you are leaving after the hearing, do not hesitate to take a look at those. Those are available.

Can we have you back up again? I want to ask you a few more things.

Mr. CHALFANT. Sure.

Mr. PALLONE. Mr. Chalfant, you mentioned again—I think you mentioned that a lot of people are purchasing these supplemental policies in part because of the need to cover long-term custodial care and home health care. Could you just elaborate—

Mr. CHALFANT. They are two separate policies.

Mr. PALLONE. Okay. Go ahead. What I wanted to know is to what extent the need for that type of coverage plays into what we have

been discussing today. If you could just tell us a little more about it.

Mr. CHALFANT. Well, of course, under the existing Medicare Act, Medicare pays the first 20 days for skilled nursing—

Mr. PALLONE. Right.

Mr. CHALFANT. And then there is a deductible, \$74 a day for the next 180 days, but this is only for skilled nursing care. People sometimes get confused about the difference between skilled and custodial care. Not all nursing homes qualify as skilled nursing facilities under Medicare's regulations. There are certain regulations about the availability of physicians, the number of RN's that have to be on duty around the clock and the medical condition of the person who is there.

In my own case a few years ago when my mother had a major stroke, and went from the hospital into a nursing home. While she was getting speech therapy, physical therapy and daily or every-other-day visits from the doctor, she was a skilled nursing patient.

When the therapists had done everything they could for her, then she was to become a custodial patient. And custodial care is not covered and cannot be covered under a Medicare supplement policy. It must be a separate contract and what is happening now, the big fat envelopes with all of the lurid lettering on them.

I will send you one that I just got a couple of days ago. They even send them to me because the people who make up the mailing lists do not know that I know a little about it. But they send these things out with these huge block letters that imply somehow or other that if you do not read this, your left leg is going to fall off or something of the sort. And this now is simply inadvertently—at least I hope it is—inadvertently, the State of New Jersey, by making it difficult for some of the decent Medicare supplement companies to function in this state, have forced these guys who are out to do anything for a buck, to go into the long-term custodial care insurance coverage.

Now, there is one company that happens to have a very good policy but it is a company that is not too good in policing things because if you read this business about Transport Life with the Keith Wood Agency and the problem that is going on with them, that has affected now their long-term custodial care policy, because I will not sell it and most of the agents that I know will not sell it simply because they figure if the company was as careless enough to hire an unscrupulous agency to represent them in the below-65 area, they probably were above that.

So there are some very good policies around, some very good companies around. The problem is not in the companies. The problem is in the agents.

Mr. PALLONE. Okay. But then, Mr. Chalfant, if I understand what you are saying, there are a lot of people out there that are buying both supplemental Medicare coverage—

Mr. CHALFANT. And long term.

Mr. PALLONE. As well as long-term care insurance.

Mr. CHALFANT. And they are expensive.

Mr. PALLONE. And is there a certain amount of confusion then between the two that results in duplicative coverage?

Mr. CHALFANT. No. I do not think there is much confusion as there is that—you see, when the long-term custodial care policies are sold, there are a number of variables. So many dollars per day. The minimum in New Jersey is \$40 a day up to \$120 a day. Now, if people cannot afford to buy a policy that covers for a long period. Or the second thing is that some of these policies cover for a limited period of time. Some of them have what they call a 6-month benefit period. Now, a benefit period means that if you are in custodial nursing for 6 months and then at the end of that 6 months the policy is no good until you have gone 4 months without a claim. So out of every 10 months, they pay 6 months, you pay 6.

Mr. PALLONE. But most people when they need custodial care end up needing it indefinitely. Is that not true?

Mr. CHALFANT. Yes, and there are policies available that cover custodial care for life.

Mr. PALLONE. So the other is not very realistic though.

Mr. CHALFANT. No. But a person above the age of 70, to buy a policy that will cover a lifetime—

Mr. PALLONE. It is practically—

Mr. CHALFANT. We are talking anywhere between \$2500 and \$4000 a year just for that policy and that is not even figuring about the Medicare supplement policy.

Mr. PALLONE. Okay.

Mr. CHALFANT. So the average person just cannot afford anything of that sort. They can afford limited coverage, limited coverage for maybe a year or something of the sort. And if they are young enough when they take it out, if they take it out under 65 or between 65 and 70, they can get away with under \$1000 a year for a one-year policy.

Mr. PALLONE. But then, in other words, it is not really a problem with people confusing that type of policy for custodial care or long-term care.

Mr. CHALFANT. No. It is primarily a problem of the way the policies are structured. It is very easy for an agent to sell somebody something that they can afford but it may not be the coverage that they need.

Mr. PALLONE. It may not cover that. Okay.

Another thing I wanted to ask you is that this general idea that more is better. You said that generally you need only one good policy.

Mr. CHALFANT. That is correct.

Mr. PALLONE. I think that is a good point, if we could just get that across to people because I think a lot of people are under the impression that it may be necessary to have more than one—not 5 or 6, but more than one.

Mr. CHALFANT. Well, you see, the National Association of Insurance Commissioners unanimously adopted certain regulations regarding Medicare supplement policies, what they must cover.

Now, that means then that if you buy one policy that covers in accordance with the NAIC guidelines, that if you buy another policy, it is going to cover the same things.

Mr. PALLONE. So there really cannot be—it is almost impossible in your opinion that if a person has one Medigap policy that they are going to need anymore.

Mr. CHALFANT. Except for one thing. Ocean County has the lowest rate of Medicare reimbursement of any county I think in New Jersey and possibly this entire area. For some reason or other, HCFA—for the benefit of those listening, HCFA is the Health Care Financing Administration, which decides what Medicare is going to pay out and so forth. HCFA has decided in all their wisdom that this is an economically depressed rural area—

Mr. PALLONE. I remember.

Mr. CHALFANT. And therefore, physicians and other providers in this area should be paid at about the same rate that we would be paid in the hills of West Virginia.

Mr. PALLONE. And is that all of Ocean County?

Mr. CHALFANT. That is all of Ocean County, yes, sir.

Mr. PALLONE. Okay. We have had that, Jim.

Mr. CHALFANT. Yeah. So that if your physician is charging more than the Medicare allowance, good Lord, he ought to. Because I will give you one very good example.

Approximately two blocks from this building, there is a physician, an optometrist who is a highly regarded person in the community. He's on the board of directors of the hospital and the community college. Known him for years. This man used to take Medicare assignment when he prescribed cataract glasses, the so-called coke bottle glasses. That is the only thing that Medicare will pay for. He used to prescribe these and he would accept Medicare assignment. In doing so, it was costing him \$43 more to pay the supplier than he was allowed by Medicare. He could not do it. Even if he gave away the cost of his time in the examination, it would still cost him \$43 every time he prescribed the pair of glasses. Now, that is not fair.

Mr. PALLONE. How would the—let us relate that back to Medigap again.

Mr. CHALFANT. There are policies—there were, excuse me—there were policies that you could buy in New Jersey that covered the difference between the Medicare allowance and the actual billing. For reasons of their own, the State Department of Insurance in New Jersey has decided that they do not want this kind of policy sold in New Jersey.

Now, AARP has a policy like that. It is what they call a UC policy—usual customary. The policy is called the M-7 and it costs \$93.50 a month. Now, they have a perfectly adequate policy that costs \$41.50 a month but does not cover excess charges.

Mr. PALLONE. So that might be something that one would want in addition to the Medicare.

Mr. CHALFANT. I recommend that policy to people all the time. I recommend it above Blue Cross/Blue Shield because Blue Cross/Blue Shield, (a) is not guaranteed renewable. And Blue Cross/Blue Shield Super 65, which is their top policy, does not cover any nursing home care custodial or skilled nursing, which under NAIC guidelines they are required to do.

Now, if that policy was sold by any other company it would be illegal in this state. Why can Blue Cross get away with it?

Mr. PALLONE. I know that the initial problem you brought up about this discrepancy for Ocean County is something that has

been mentioned to us many times. And we need to look into it more.

Mr. CHALFANT. Phil Rubenstein told me a couple of times that he had discussed it with you.

And, by the way, I want to thank you for being here in the sense that you are one of the few really knowledgeable people in the Congress and it is good to talk to you.

Mr. PALLONE. Oh, I do not know about that, but thank you in any case.

All right. Well, thanks a lot. We will definitely consider a lot of the suggestions you made.

Mr. CHALFANT. Thank you, Congressman.

Mr. PALLONE. Okay. I see we have questions, but what we are trying to do basically is to go through the speakers that we have and have them ask questions.

What did you want to ask about?

Ms. MAUS. Well, I wanted to ask why when the catastrophic part of the Medicare program was dropped, why did all the Medigap insurance companies raise their rates tremendously?

Mr. PALLONE. Okay. Let me——

Ms. MAUS. The benefits were all the same.

Mr. PALLONE. The problem that I have is that it is a problem for the reporter in transcribing questions, right?

The REPORTER. I just need her name.

Mr. PALLONE. Oh, okay. Then let us have your name.

Ms. MAUS. Mildred Maus, M-A-U-S.

Mr. PALLONE. Okay. I do not know if I have a definite answer for you. I will say that my understanding is that because Medicare was now covering those catastrophic situations, in order to cover certain ones that would no longer be covered under Medicare, that was used as a justification for increasing the rates.

Now, that does not mean that they were increased in a way that they should have been. It could have been all out of proportion. But that I am sure is the rationale that they give for increasing the rates. That they have to cover some of the things that were under catastrophic. But it is probably true that most of the things under catastrophic are still not covered by a lot of these policies.

Yes, Mr. Chalfant.

Mr. CHALFANT. Congressman, if I may, just one thing.

Mr. PALLONE. Please.

Mr. CHALFANT. The state regulates insurance premiums. Now, if the insurance companies raise the rates unreasonably, they would have never gotten approval from the state.

Mr. PALLONE. The point is that——

Mr. CHALFANT. Consider the difference after the Medicare Catastrophic Act was repealed, consider the difference in the policies. Take a look at the difference in the policies. If you would like to look at them, I think I can show you a couple of articles. There is a tremendous difference in the policies. Just the nursing home care alone.

Mr. PALLONE. Some of things—in other words, it is the fact that some of the things that were covered under catastrophic, once it was repealed now are covered under these policies.

Mr. CHALFANT. Yes, because under the catastrophic Medicare, you paid for the first 8 days of skilled nursing care and Medicare paid the rest.

Mr. PALLONE. And also it covered some home health care as well.

Mr. CHALFANT. And now, instead of Medicare paying for 8—instead of the insurance policies having to pay 8 days, now they have to pay for 180.

Mr. PALLONE. Okay. Let me move on. I understand now that we can take some questions, so maybe after we get through with the speakers, if you have questions, we will take them. It is not a problem.

But I did ask Lt. Mindak to come today and I want to put him on because I do not know if he has all day.

Okay. I guess we are going to have Lt. Jules Mindak, whose Special Projects Unit, Task Force on Senior Victimization and Elderly Abuse from the Ocean County Police Department and Ed Tumminello, who is the Chief of Enforcement with the New Jersey State Office of Consumer Affairs.

Why do not the both of you come up and we will create a panel here.

Lieutenant, thank you for coming.

STATEMENT OF LT. JULES L. MINDAK, OCEAN COUNTY SHERIFF'S DEPARTMENT, SPECIAL UNITS PROJECT, TASK FORCE ON SENIOR VICTIMIZATION AND ELDERLY ABUSE

Lt. MINDAK. Thank you for asking me, sir.

I am not an expert on insurance. I am not an expert on Medicare. I am not an expert on Medigap. What I do feel I have some expertise in is fraud and deceptions. And that is what my presentation is going to be geared in. Some of the deceptive practices used to sell policies.

Medigap fraud and abuse is not a new problem. This problem has been with us for years and will continue to be with us for years. The only way to eliminate the problem completely is to do away with the need for supplemental insurance policies.

Due to the financial burden which government would incur upon itself, and the influence which would be brought by special interest groups, realistically this probably will not happen in the near future. Without total financial coverage of health care benefits, there will always be a need for supplemental financial coverage by private providers. Due to the rising cost of health care, only a very few individuals are able to meet these costs by drawing on their own financial resources.

The private providers of Medicare supplemental insurance policies are many and varied as are the types of coverages offered. There is good, adequate, poor and worthless types of coverage available out there. It is a tremendous burden upon the average older American to evaluate the plethora of different policies and types of coverages being offered to him or her. Without a background in the insurance field, the individual soon becomes overwhelmed by the monumental task and all too often has to rely on what he is told about the policy by a salesman—really when we talk about this, that is all an insurance agent is, he is a salesman—and not what

the policy actually states. They are relying too much on sales pitches.

Salesmen or agents, like the companies they represent, are in business to make money. As long as there are private for-profit companies and individuals, there is going to be slanted, biased and untrue representations of what the consumer is getting for his or her money. This is not to say, and I have heard this said before and I agree with it—this is not to say that all companies and agents misrepresent their products. But there is always going to be that potential out there as long as we have private for-profit companies providing these.

In combating the problem, the first step should be to have an educated consumer. Too many people today are not aware exactly of what Medicare does and does not cover. All too often people listen to advertisements on television or read the horror stories in the advertising brochures about how someone has been financially devastated by an illness because Medicare did not cover enough of the medical costs. While this can indeed happen, some companies use this scare tactic to sell their product which may or may not be what the consumer really needs and wants.

Before someone evaluates a supplemental coverage policy, they must be well versed on what is already covered by Medicare. You know, another option that many people may be eligible for and are not aware of is Medicaid. There is a number of people today out there who are unaware of their eligibility for Medicaid. They may very well be scrimping and saving to buy Medicare supplemental insurance when they are eligible for Medicaid. And they do not really need the policies they are paying for.

What today seems to be the main way people, especially senior citizens, are solicited to purchase Medicare supplemental insurance policies are mass mailings, television and radio advertising and by personal contact with a representative of the company offering the policy. Each of these means of reaching the public should be addressed separately. They should be addressed separately because while the end result, the sale of the policy, may be the same, some of the techniques they are using to reach this goal differ.

Mass mailing. Okay. One of the big deceptive tactics used with mass mailing is the envelope. Now, we have heard that there has been laws passed to stop the use of official-looking envelopes. Well, I am afraid to tell you that this is not a very successful law. Often the advertisements arrive in an envelope similar in color and size to the type of envelope used by the government to mail Social Security checks. The outside of the envelope will have phrases on it like "Medicare Alert." It may list penalties for interfering with the delivery of the letter, citing statutes and fines. Or it may say "For Official Use Only." Such phrases on the outside of the envelope tend to reinforce the idea that this is a letter from a government agency, which may encourage the individual to be more receptive to what is inside the envelope. All too often inside the envelope the reader finds an advertisement featuring many of the tactics of the hard sell. Included among them, they will be pushing for an immediate decision, offering a policy for a limited time or to a limited number of people. They will use scare tactics, promise immediate coverage, no physical examination. What seems to be an unbeat-

able price. Or even a pre-reserved policy. Okay. Exactly what a pre-reserved policy is I have no idea. But these are just a few of the techniques used to sell the coverage.

The many advantages to the policy and the items covered are counted in large block letters, while the exclusions and limitations and disclaimers are in small print and obtuse paragraphs and clauses. Many times to understand a policy or even an advertisement for a policy, what you need is a magnifying glass, a legal pad to take notes, a road map to follow the policy, a law degree or a legal dictionary to understand what the terms even mean.

What comes to mind after going through a couple of these and, believe me, we have, and carefully listing all the pros and cons on these documents, there is an expression that says "The large print giveth and the small print taketh away." Well, believe me, it is true in these advertisements and in some of the policies.

The next one that I would like to discuss is the television. Many companies offer these policies through television advertisements. What seems to be a growing trend in the television advertising is to have a well known and trusted celebrity talk the company's product. Many people associate the product with the celebrity. And since the celebrity has always been a good guy. He's been associated with family, stability, honesty and a relatively noncontroversial type of person, the product seems to assume in many people's minds the same qualities. The celebrity has been coming into their homes for years through television, says it is a good product, so it must be a good product. He would not lie to them.

The insurance policies being offered in this manner may be good policies. However, not all policies, no matter how good or bad they may be, are not enforceable in all states. In some states the policy may not be permitted to be sold at all. Okay. There are sometimes a disclaimer on TV. However, generally the disclaimer is either glossed over by a glib announcer or it is flashed on the screen in such small type that you would almost have to have freeze frame on a VCR to read it. Like with the telephone numbers there with the 1-900 numbers. In the real small print, it says, "\$87.95 for the first 2 minutes and such afterwards." That is about the same size as the print on the disclaimers they flash for the advertising.

Okay. The direct one-to-one approach, either in person or by telephone with the agent. This is the third major way the companies sell their policies and the agencies sell them. It must be stated that like insurance policies, insurance agents may be good, adequate, poor or bad. Because of the complexity of the product, most people put a great deal of trust and responsibility into the hands of the agent of salesman.

The majority of the senior community, like the rest of the population, does not have the background and expertise to fully analyze what is or is not covered in a policy.

As with anything in today's technical and complicated society, an abundance of trust and confidence tends to be placed in the hands of an agent or salesman. This is all well and good if the agent or salesman is honest, competent, and knows what his product does and does not cover. However, if the agent and the product are not what they are presumed to be, it is often too late when the consumer finds out.

An insurance policy is not like a television, a washing machine or a hair dryer. An insurance policy is more like a smoke detector. It may sit there for years and not be needed. But when it is needed, it must work. If it does not work, financial disaster may be the result. We have a lot of people out there that buy these policies and they are not correct on what they believe is covered. And unfortunately, most of the time they do not find out until it is too late, when they need to use the policy. An unscrupulous agent or salesman can not only under-insure someone, but they can just as easily and more profitably over-insure someone. And that has already been mentioned.

Rather than sell one supplemental policy, which may cover everything an individual needs, a client may be sold multiple policies at a higher total cost to cover all the client's needs. Again, there is not a central evaluation place for these policies where someone can call to find out whether it is a good policy or not. Scare tactics, horror stories, pressures for an immediate decision. Again, the no physical examination, immediate coverage and a great price. They are just some of the techniques used there.

Now, I know the focus of this hearing was on community-level handling of the problem. It is too big to be handled on the community level. There are too many facets to the problem. However, on a community level, we may be able to make a small dent in it through the education of the consumer. If people were made aware of what techniques, some of which I have just mentioned here, are used to sell the product, maybe we can make a small start at the community level. People would not put up with those tactics if they were out buying a radio or television set. Why do they put up with it with insurance policies?

To complement a community awareness program, I agree with Mr. Chalfant, more insurance counseling at little or no cost to seniors should be made available. Again, due to the budgetary constraints at all levels of government, it may not seem possible to fund it.

However, there is a great resource in the senior community which remains relatively untapped. And, again, this resource is the seniors themselves. Competent honest retired insurance agents have got to be someplace. Maybe what we need for the insurance counselors can be found in the community through these types of programs being offered there. Like Mr. Chalfant does. Like the Service Corps of Retired Executives. In Ocean County we have an RSVP program which is a Retired Senior Volunteer Program. Perhaps maybe more emphasis should be put on recruiting the senior retired insurance agents to go out and give their time.

Okay. In the coming years, it seems that all of us, not just the senior segment of the population, are going to have to rely less on government to protect us and more on ourselves. Everybody seems to be so concerned with cutting the budget, cutting the deficit, and everything. Somebody is going to have to make up the difference, and I feel myself that it is going to have to be—we are going to have to get it from ourselves, from our communities, from our community organizations. Government is finding it, and I believe financially impossible to protect us. And somebody is going to have to do it and I think we are going to have to learn to rely more on

ourselves and community involvement to make up the gaps that are going to be left when they cut the government programs.

Thank you very much.

Mr. PALLONE. Thank you, Lieutenant.

Mr. PALLONE. I just wanted to ask you, how many inquiries do you get in the Task Force or the Special Projects Unit about the Medigap problems? Do you get quite a few?

Lt. MINDAK. Medigap problems, we probably get at least, I would think, 4 to 5 calls a week.

Mr. PALLONE. That many?

Lt. MINDAK. That many. Generally most of them want to know about what they see on television.

Mr. PALLONE. So they are not necessarily victims. They may be inquiring about what they see or someone who has called them to try to sell them insurance?

Lt. MINDAK. Right. And we get out a fair amount into the community talking about frauds and scams and con games. And the techniques they use on three-card Monty games are very similar to some of the techniques they use to sell insurance policies. When we go out and we talk about these types of street cons, they are able to recognize a lot of the same techniques being used on the television or in the mail orders to sell the policies. That I think is why we get the calls because something just does not seem to be right with it. It seems like too many facets of a fraud.

Mr. PALLONE. So basically you are giving them general information about fraudulent practices. I mean, as you said, the problem is too complicated. I mean you obviously cannot be comparing policies or anything like that.

Lt. MINDAK. No, no. When we get specific questions like that, they are generally referred to a member of the Task Force, such as Mr. Chalfant, who has some expertise——

Mr. PALLONE. Who has the information.

Lt. MINDAK. ——in evaluating the policies.

Mr. PALLONE. Okay. But obviously a number of people are aware that your office exists and that they can call. I mean I know that there is a problem in terms of people not being aware of where to call. Obviously there is some awareness.

Lt. MINDAK. Yes. But, again, what we are getting generally is not questions on whether this is a good policy or a bad policy.

Mr. PALLONE. It's just the TV commercials.

Lt. MINDAK. Right. It is about the TV commercials or the mass mailings. And they do not really want to know if it is good or bad. They want to know—they question the techniques being used.

Mr. PALLONE. Interesting. There was one other question I wanted to ask. Maybe you are not in the best position to answer this, but you did mention it, about people eligible for Medicaid who purchase Medigap policies. I did not think that was necessarily a problem, but you have found that to be the case?

Lt. MINDAK. I have found just this year alone 6 cases where they were eligible for Medicaid and were not aware of it. And that came in indirectly in my office and I feel that if my office would be getting on the average of better than one a month, then there must be a lot out there that, you know, a lot more than what we see.

Mr. PALLONE. Yeah.

Lt. MINDAK. I know Mr. Chalfant stepped down again, but do you find that to be the case also, that you have a number of people—

Mr. CHALFANT. Not too often because policy applications in the State of New Jersey are required to ask people whether they are on Medicaid.

Lt. MINDAK. Oh, I see. So you may be getting—

Mr. CHALFANT. And if they are on Medicaid, they are not permitted to sell them the policy.

Lt. MINDAK. Oh, okay.

Mr. CHALFANT. There are two things about that really. See, there are two documents that are already required and they are so sloughed over so much that even somebody like Lt. Mindak may not know. In New Jersey, there is something called an outline of coverage. And if the salesman does not give a person an outline of coverage, which spells out exactly item per item what Medicare covers and what the policy covers, that must be given at the time of purchase. If it is not, then it is a violation of state insurance regulations and the agent could be punished accordingly. I wish they would be.

And the other thing is there is one of the most valuable little booklets in the world right here on that table called a Guide to Health Insurance for People with Medicare. If you do not have one, pick one up. And turn to page 18/19. There is an outline in a chart form that spells out specifically what Medicare covers and does not cover. And a Federal law states that that must be given with the purchase of every Medicare insurance policy. If we can simply get enforcement of the laws that we already have, we would not have the doggone problems.

Mr. PALLONE. I see. Mr. Olinger is pointing out, which is maybe what you are getting, Lieutenant, is you get a lot of people who are not eligible but then as their income or whatever decreases, they become eligible and they just may not know it initially.

Lt. MINDAK. They are not aware of it.

Mr. PALLONE. They are not aware.

Lt. MINDAK. And they are the people that are out there scrimping and saving for these supplemental policies when they are not even aware they are eligible for Medicaid.

Mr. PALLONE. Okay.

Lt. MINDAK. Plus I found one other thing. At senior communities a lot of people I think are reluctant to take government handouts.

Mr. PALLONE. Oh, we know.

Lt. MINDAK. And whereas I think Medicaid more of a government handout and they associate Medicare with welfare and with being poor—

Mr. PALLONE. Right.

Lt. MINDAK. That is an association we find out there.

Mr. PALLONE. Okay. Well, thanks very much. I do not know if you have to leave. If not, we will go to the next speaker here who is Mr. Ed Tumminello, Chief of Enforcement for New Jersey State Office of Consumer Affairs.

**STATEMENT OF ED TUMMINELLO, CHIEF OF ENFORCEMENT FOR
NEW JERSEY STATE OFFICE OF CONSUMER AFFAIRS**

Mr. TUMMINELLO. Thank you. It is a pleasure to be here, sir, and I would like to thank you for inviting me today.

My Director, Patricia Royer, regrets that she is unable to attend today. She has a very deep concern for problems affecting the elderly and that is one of her top priorities that she has undertaken upon assuming control of the Division of Consumer Affairs.

While we see this problem as primarily one which relate to the Department of Insurance, and I do not know if there are any representatives from that department here today, we are, of course, very interested in issues which affect the elderly and if the Division of Consumer Affairs can assist either this committee or any members of the public in dealing with these problems, the Director certainly extends her assistance and would be happy to meet with this committee at any time in the future on this or any other issues that affect the elderly.

I would like to mention that we do have a statute in New Jersey which prohibits the use of envelopes or other packaging which simulates that of a Federal Government agency. Unfortunately, the material that we see coming into New Jersey is sent from other states and I believe should be addressed by the Federal authorities or by other state authorities. Of course, if any of it is obtained which originated in New Jersey, we would, of course, ask to be notified because we could take action against those agencies.

I was asked to come here today—and my comments, I am going to keep them brief—by Mr. McCann to address an issue which is peripherally related to the Medigap problem. It is certainly related to a situation which presents a great potential for harm to the elderly and it is something that—the reason I was asked to be here is that your office has received a number of inquiries about this problem and we are in fact working with your office to some extent on this. We have several investigations in progress which relate to the situation that I am going to describe.

What it consists of, and, again, I am the Chief Investigator for the Enforcement Bureau which conducts all investigations for the professional and occupational licensing boards in New Jersey. And this, of course, includes all the health-related professions, the Board of Medical Examiners, the Board of Dentistry, the Board of Nursing, which also regulates home health aides, pharmacy, chiropractic examiners, optometrists and so forth.

I wanted to comment today to both educate your committee on this problem and perhaps any members of the public who are present and to reiterate our interest in continuing to work with your office on the issue that I am going to describe because we feel that we do need some assistance in coordinating our efforts with Federal agencies that are also involved in this situation.

What it deals with is in cases—we have seen a number of cases, particularly in the Ocean County area, where consumers and in many instances the elderly have been targeted by unscrupulous medical practitioners who have induced them to undergo unnecessary surgical procedures or receive other forms of unnecessary treatment.

In these situations, we have noted that certain practitioners have provided and in some instances pressured consumers to undergo surgery or receive other types of treatment which were unnecessary or of dubious value in correcting the patient's medical condition. Or were potentially harmful and costly, both to the Medicare program and to the consumer. And, again, cost containment is certainly an issue which is relevant here. Any costs which impact on the Medicare program——

Mr. PALLONE. I guess we were fortunate for an hour or so, but it has started up again. I apologize. Go ahead.

Mr. TUMMINELLO. In that any costs which impact on the Medicare program ultimately either increase costs for the Medicare recipients or reduce the benefits that they will receive.

Consumers may encounter these types of practitioners in a variety of ways, some of which include referrals by friends or associates; advertisements, including those seen on television; or the offering of free health screenings, free initial examinations, free eye screenings, or a hearing screening, that type of examinations.

I want to emphasize that there is nothing wrong with these types of referrals or free screenings per se. But consumers should be particularly wary of these practitioners when they undergo a screening or evaluation and they are provided with information or results which indicate a need for surgery or other major forms of treatment and they are steered or pressured to obtain these services from a particular practitioner without allowing them a choice of which practitioner to see for these services. Where they are discouraged from obtaining a second opinion or evaluation from an independent practitioner or they are pressured to undergo elective surgery or initiate a major course of treatment immediately.

Some of the scams and we heard about scare tactics today with supplemental Medicare insurance, but there are also scams used upon patients to pressure them into obtaining unnecessary procedures and some of these are where elective surgical procedures—and I want to emphasize elective as opposed to emergency—or course of treatment is portrayed as being necessary immediately and the patient is discouraged from obtaining a second opinion.

Another is where the practitioner offers cost-related inducements or provides financial incentives for having the surgery or treatment performed immediately.

Another would be where the practitioner offers claims of professional superiority over other practitioners and these claims are based primarily upon testimonials by or about other patients who have received these services.

And the last is an indication by the practitioner that he or she will accept Medicare payment as payment in full.

To avoid becoming a victim of these types of practitioners, before undergoing elective surgery or initial elective types of treatment, we recommend the consumer should, number 1, make sure that the practitioner who offers the service is licensed by the State of New Jersey.

Number 2, make sure that the patient receives a thorough examination by the practitioner.

Number 3, request that the practitioner notify and consult with the patient's personal physician prior to receiving the surgery or treatment.

Number 4, question the practitioner on the necessity for the surgical procedure or treatment, inquire as to whether there are alternative or more conservative forms of treatment which may be available, ascertain the exact nature of the surgery or treatment, its duration and its total cost.

Number 5, they should question the practitioner on the advantages, disadvantages, and possible complications of the surgery or treatment which has been recommended.

And lastly, obtain a second opinion from an independent practitioner even when the Medicare program does not require you to do so, if the surgical procedure is considered to be major surgery, even if it is characterized as low-risk surgery, or when the treatment is potentially harmful, lengthy, or extremely costly.

I want to illustrate a problem, provide an illustration of a potential problem which a consumer may encounter when they fail to follow these guidelines which has prompted an increased number of investigations by our division over the past few years, and this involves elective cataract surgery.

In several recent investigations by our office which were prompted by consumer complaints, we found that patients were told that they required elective cataract surgery involving the removal of the cataract and the implantation of an intraocular lens. Some of these patients, upon obtaining a second opinion, learned that they did not require this surgery and that their vision problems could be easily corrected by a more conservative means. For example, a change in their prescription lens or the use of medication.

The illustration here is that had these patients failed to obtain a second opinion, they would have undergone unnecessary cataract surgery which can be extremely costly, both to them and to the Medicare program. Unfortunately, a number of patients have undergone these procedures. They are certainly low risk but there is always the risk of complications and adverse outcomes.

In closing, I would like to just provide what our recommendations to the committee are in this regard.

Number 1, that the Aging Committee continue to conduct research into the ways in which the elderly may be victimized by unscrupulous health care practitioners, and to seek legislation and policy changes which would address these problems.

Also, that the committee encourage the dissemination of public information to educate health care consumers on these issues and to indicate where they can obtain additional information and file complaints if they feel that they have a problem.

And lastly, and most importantly, at least to our agency, is that the committee sponsor initiatives which would increase the level of interaction and cooperation between Federal and state agencies that regulate health care practitioners and/or administer programs which impact upon the health care community.

I have been in touch with Mr. McCann on a couple of these issues. One by way of example is a concern that we have where the Medicare program suspends a physician's participation in that program because they have found that the individual is incompetent

or has treated a patient in a negligent manner and it takes us a somewhat lengthy period of time, state agencies, a lengthy period of time to obtain this information. One of the reasons being that evidently the Department of Health and Human Services is not permitted to release this information or detailed information about the reason for this suspension from the program directly to state regulatory agencies. We have to obtain it from the peer review organization in our state and the process there because it requires prior notification to the physician involved and for other reasons can often delay our receipt of this information for several months.

This presents a potential danger to patients of that practitioner, particularly if he is in fact an incompetent practitioner and we are unable to take action against him.

I would like to thank you, sir.

Mr. PALLONE. Well, thanks for coming.

Mr. TUMMINELLO. It has been a pleasure participating today.

Mr. PALLONE. Thanks for coming and giving us that information.

I just wanted to ask you the same thing that I had asked the Lieutenant before about the number of inquiries that you get about Medigap and fraud or abuse. Are there a number—do you have any statistics in that regard?

Mr. TUMMINELLO. No, sir. Again, our Division does not get directly involved with insurance issues.

Mr. PALLONE. It does not deal—

Mr. TUMMINELLO. That would be under the Department of Insurance.

Mr. PALLONE. So it is more likely that someone would call the Insurance Department than call your office most of the time?

Mr. TUMMINELLO. Yes, sir. We do get involved in these issues where there are professional licensees who are engaged in defrauding insurance carriers or filing false claims, false Medicare claims, and what not. We certainly get involved in those investigations of the practitioners.

Mr. PALLONE. Okay. Do either of you have ideas in terms of what we could do to increase reporting? I guess, again, it is a question of what kind of publicity is available for people to know what agency they can turn to or whatever.

Lt. MINDAK. Well, I think it would, particularly from my perspective, be a public information program as to where they can report, but I really feel we have to have stricter laws or stricter enforcement of laws on the books---

Mr. PALLONE. Yes.

Lt. MINDAK. ---with the advertising, such as the mailings and the television and I know that is multi-state and while those policies may be legal in New York or Pennsylvania, it does not necessarily mean they are legal in New Jersey. The people in New Jersey are seeing these shows and calling their toll free numbers and such.

Mr. PALLONE. Well, I started out today talking about this legislation and the Medigap Fraud and Abuse Prevention Act and I think that that would go far towards dealing with a lot of these problems.

I am told though that it has not moved—I do not know if it has been introduced for very long in Congress so we may have to wait

until next session to see any real action on it. But there is obviously a big problem out there and the fact that that is there and it is something that I have co-sponsored and hopefully we will see some action on it.

I did not want to—I know we had some questions before and I am glad to see that we can open it up to the floor, so maybe if the three of you do not mind staying, we could take some questions from people who are here.

Yes. Would you just give us your name?

Ms. BURKE. Yes. My name is Hazel Burke. I worked in a nursing home two years and I work in a home health care agency so I know a little of the inside.

When Medicare started, the doctors found every loophole they could to take the elderly, give them inhalation therapy, whether they were in need of it or not, charged the government for it. Take blood specimens, do those many times. I also have seen the fraud of the doctors in workman's comp cases. All these things have to be tightened in Congress. The workman's comp, of course, has to have an overseer to private doctors who grab the patient who has been hurt. Don't let anybody else look at him. And, you know, there are many things.

Now, the only solution that seems to me to be practical to our whole health care system is to set up a system like all the other Western countries have. We are the only ones in this bogged-down, Band-Aid approach to our medical system. Every time something comes up, we are trying to put a Band-Aid on it or whatever.

Canada has a system where a person takes a card in, puts the card down and that is the end of it. They do not have to worry about the cost. Part of the reason is, all this paperwork has increased the cost of our medical care system. Each new policy, each new coverage, has to go back and forth between companies. You pay this and you pay that. And our cost is much higher than any other country, mostly because of the paperwork that is involved with our system.

The other—there are other factors, but that is the main point I wanted to make.

Also, the cost of lawsuits, which is sky high in this country. It does not seem to be prevalent in any other. Congress has to put ceilings on what a person can get because the rest of us are paying for it in the end. And they have got to put ceilings if a doctor makes a mistake. Nobody is perfect and once in a while they might. If they make a mistake, there has to be a ceiling so that the rest of us are not seeing forever and ever this gap.

I am sure all the old people are not worried about whether the gap policy will cover today. Five years down the road somebody has figured out some way to get around that. And the next thing they know, they are not covered and they worry. And every elderly person worries about what is going to happen to them because our whole system is just sky rocketing and no lid is being put on the costs.

Mr. PALLONE. Okay. I appreciate your comments. I was going to say a few things though.

One is that obviously the Lieutenant also hinted at the fact that if you had a broad national health insurance I think you would not

have these problems because you would not need supplemental care if everything was covered. And that ultimately what we are talking about here is a private insurance policy and the sale of that through agents or mail or whatever inevitably causes a lot of these problems.

When I have town meetings most of the people that show up are senior citizens because as the Freeholder mentioned, we have such a high percentage of seniors and they tend to be the people that are most interested in asking questions about government, which is good. I do not know that it is good that the others are not interested, but it is certainly good that most of you are interested.

The problem that I see in terms of not only a national health care system, but even expansion of Medicare if we get even on a limited basis to expansion of Medicare, is that every time we talk about it, we usually need a new revenue source to pay for it. And the catastrophic—

Ms. BURKE. It is cheaper.

Mr. PALLONE. Well, we could talk about that.

Ms. BURKE. If you just look at Canada. No one really takes a hard look at how much lower their system costs than ours. They are thinking Medicare. They are thinking our system. They have got to forget ours and—

Mr. PALLONE. I understand.

Ms. BURKE. —on a workable one that—or another country's. Sweden or Norway.

Mr. PALLONE. I understand what you are saying, and you are saying that—perhaps what you are saying, and I have heard others say it, is that if we took all the money that we spent on Medicare and Medicaid and Blue Cross and other types of private insurance, the argument could be made that we might be able to afford a national health care program similar to Canada.

There are, of course, those who say we could not, that it would cost more and it would create more tax implications. But I will tell you that part of the problem with Congress right now is in part related to what happened with the catastrophic. There was an expansion there to try to expand coverage of Medicare to include catastrophic health care and because that was repealed we are having a harder time now trying to get Medicare expanded into the home health care area, for example, or some of the other things that have been mentioned here today.

Perhaps the answer is to just have a totally new national-type system. But, again, every time that is brought up, the cost becomes a factor. And I have seen some studies that show that you can do it without additional costs and a lot of other studies that show that it will be additional costs. So I do not know if we can argue through that today.

But the political problem, if you will, is in part the cost.

Ms. BURKE. And the doctor lobby.

Mr. PALLONE. Well, there are a lot of lobbies out there, but I think that the cost is the biggest factor.

I wanted to ask—I know we will get back—but this other woman, Mrs.—your name?

Ms. MAUS. Maus.

Mr. PALLONE. Mrs. Maus, that was bringing it up again, but we really did not get into it very much, but I just wanted to ask again—one of the issues that I mentioned in my opening remarks is about this GAO report that found that Medigap rate increases averaged nearly 20 percent this year. And suggests that part of that is due to coverage that was included in the catastrophic health care.

You were starting to talk about that and we really did not get into it.

Mr. CHALFANT. Yes, sir. You see, for one thing, the change in the benefit period structure. Now, under the Catastrophic Act, there would have been only one benefit period in a calendar year. A benefit period is a misunderstood thing, but if you will look in this guide to Medicare, a benefit period has to do not with how long you are in the hospital, but how long you were out between hospital stays. If you are out more than 60 days, under the new law, the present law, which is the new old law, if you are out of the hospital more than 60 days, you go back in, it is a new benefit period, there is a new deductible. Which means that conceivably—I know of one case, a friend of mine, who was out—that had three benefit periods in a year. So the insurance company is going to have to pay for that. So the insurance company is going to have to pay three times as much as they would have under the Catastrophic Act.

Take—if you have got a calculator in your pocket, what is 74 times 180. Now, 74 times 180, that is the number of extra days and amount of dollars—\$74 a day for 180 days—that is the amount that the insurance companies are going to have to pay out now that they did not have to pay out under the catastrophic. Because under the catastrophic, all they had to pay for was 8 days and then Medicare picked up the rest up to 150 days.

Now, the thing is that it was just reversed. Now Medicare pays the first 20 days. You have to pay after that. The insurance companies have to cover that. And so far as—one thing, this lady back here said about lawsuits. The diagnostic tool of choice 15 years ago was the X ray. Now in order to protect themselves against lawsuits, your doctor will order a CT scan at \$800 or an MRI scan that is \$1900 because he is afraid he is going to be sued.

Ms. BURKE. Put a ceiling on the lawsuits.

Mr. CHALFANT. Absolutely.

Mr. PALLONE. Well, that is certainly something that is being discussed.

Mr. CHALFANT. I wonder about the Canadian system. Has anybody here seen statistics on the number of doctors in the border states, along the border of Canada, who have 25 to 30 percent of their patients are people who come across from Canada and pay out of their own pocket because they cannot get treatment in Canada under the wonderful system?

Ms. BURKE. That is a misnomer.

Mr. CHALFANT. 30 percent of the surgical procedures in Albany, New York, Hospital are Canadians.

Mr. PALLONE. Okay. Let me just go back to this thing about the Medigap rate increases though. Can that in any way be attributable to the fact that so many people are buying duplicative policies?

Mr. CHALFANT. I doubt it, because, again, the State Departments of Insurance regulate these things very, very closely. And very, very carefully. And I am sure that in particularly as diligently as the State Department of Insurance is in New Jersey, that the insurance companies had to do one hell of a job in proving to the state that these increases were necessary. Because I know there are some very fine companies. One, for example, is a company that has been in business for 104 years that was not only denied a rate increase but was told they had to reduce their rates 2 percent.

Mr. PALLONE. But in other words, Mr. Chalfant, the fact that someone is buying, for example, 5 policies, increase the cost to them but that does not increase the cost of individual policies to everyone.

Mr. CHALFANT. I doubt it. I really doubt it.

Mr. PALLONE. It should not. Okay.

All right. Yes. We need your name. And wait until the bowling stops upstairs or whatever.

Ms. MARHAK. Helen Marhak.

Mr. PALLONE. How do you spell your last name?

Ms. MARHAK. M-A-R-H-A-K.

Mr. PALLONE. Okay.

Ms. MARHAK. I have a sister-in-law in a nursing home and she went on Medicaid. Now, I am also paying AARP. Is that necessary? I thought it was not.

Mr. PALLONE. For her?

Ms. MARHAK. But when filling the applications, the lady said, "You can have her on that if you want." It comes out of her government check but I still have to send copies and—

Mr. PALLONE. You mean it comes out of what government check? Her Social Security?

Ms. MARHAK. Her Social Security check. I did not think it was necessary.

Mr. PALLONE. Medicaid is pretty comprehensive. What would she need a supplement for?

Mr. CHALFANT. I believe and you would have more resources on this than I would, but I believe that if—is this a Medicare supplement policy or a nursing home policy that she has?

Ms. MARHAK. She's on Medicaid.

Mr. PALLONE. She's on Medicaid.

Mr. CHALFANT. No. But the AARP, is it nursing home or Medicare supplement?

Ms. MARHAK. I do not know what it is, but—

Mr. CHALFANT. Well, find out because if it is a Medicare supplement policy, I believe that the nursing home is violating a Federal statute. If it is a nursing home, a custodial nursing care policy, that is okay.

Ms. MARHAK. No, it is not. Because she had it before she went into the nursing home. And we just—

Mr. CHALFANT. Well, I can buy a nursing home policy—sell somebody one at 52 years old. That does not mean they are in a nursing home. But a policy that covers nursing—AARP has sold a few policies that cover custodial nursing home care. Now, if she has that kind of policy, then there is nothing wrong with that that I can see as far as the Federal law is concerned, but the Federal law says

that if you are on Medicaid, you cannot own a private policy period. Mr. Pallone. Why do we not look into it?

Ms. MARHAK. When she was sick, I called AARP if they would pay for her medicine, and they said no, they do not pay for the medications.

Mr. PALLONE. Well, there may be something that—why do not we look into it? We will look into it. Generally speaking, it would seem that if she is on Medicaid, that she would not need a supplemental policy, but there might be something. You know, we will look into and see what we can find.

Ms. MARHAK. She said, "You can keep it if you want to. If you do not want it, you do not have to."

Mr. PALLONE. But you may not need it and it may not be even lawful for them to sell it to you. We will find out. Give us your phone number also.

Ms. MARHAK. Thank you.

Mr. PALLONE. Yes.

Ms. OLEKSIK. I am Stella Oleksiak from Normandy Beach. I have two comments. Number 1, I would like to see the press and particularly the Asbury Park Press which I like very much and I am relatively new in the area since we retired—I would like to see the Asbury Park Press in particular have a column on aging. They do so many specialty things. The fact that there are one-third of us here and more coming, I am hearing. I think that warrants—that is enough of a reading group of the populous to warrant a column on aging where these could be constantly. And many things are worthy of repeating when they are significant.

So that would be one push. I do not know how we do that. Whether—what representation is here.

Mr. PALLONE. Well, I know that in the Sunday edition they have that one page, the senior column, which goes into some of the issues. But I guess you would like to see something on a daily basis. They have the one in the Sunday press. They have the one page buried somewhere in the huge paper where they deal with—I think it is called "50 Plus" or something like that. And there is a lot of good information. But, again, it is only once a week.

Ms. OLEKSIK. Right. And I do not find that it is an attempt in terms of the writing to alert you more. What I am hearing here is that so many of us—and I have a folder-like this, you know, in line with confirming yours. My husband was in the hospital 5 times and I am still going through a folder, checking what is this, and half of the doctors you do not even know. The anesthesiologists. And you are trying to scrutinize so that there is not any fraud, but it is so difficult.

Mr. PALLONE. Sure.

Ms. OLEKSIK. And then you get the threats at the end if you do not pay this, as you are going through the process of checking. So we are indeed in need of something.

One of the things I would say, of course, is the awareness. Raising our consciousness, number one.

Number 2, I would like to reinforce and count on the suggestion of let there be a clearinghouse so that some of us—you know, I consider myself an educated person. But I am not educated in insurance. I am not educated in medical background. I need to be more

informed. I have to be able to go to a place that is available to me, so that I would like to reinforce those two items.

A simple way would be, of course, going to some kind of a national health system. I happen to know—I am Canadian and the United States and their little card works here just as well. They can transfer. They can get care here. And they speak about it very, very highly.

I do not know whether I have a resolution, but in the meantime, these two things, making us aware and then once you are aware, where can you go for help to understand, you know. And it is not that we are ignorant, we just are not aware and we do not know all these things. And we are then victimized and pressurized by the TV because that is what is coming into our homes. That big envelope. Those are the things that are coming into our homes. Because they are not being counteracted with the positives. So we need newspaper coverage. We need a clearinghouse. And I say let us get to it.

Mr. PALLONE. Okay. Sounds good.

Mr. PALLONE. Mr. McCann.

The REPORTER. I just want to say one thing. Most of the testimony that was taken is testimony that has already been written. All the testimony that is being taken now has to be transcribed.

Mr. PALLONE. Oh, we understand. But that is not a problem, right, for him to do? Is it? It may be. It may be.

The REPORTER. If people do not identify themselves correctly and clearly, it may be.

Mr. PALLONE. Okay. Well, we are going to try to include all of the additional questions from the audience. If we have problems, we may not get it exactly the way you said it or we may have to eliminate some of it because we could not identify you or we could not hear it, but we will try.

The main thing is that you are giving the information to us and we are going to use it, for our own purposes, particularly myself. So even if it does not get in as a matter of record, I am still listening and I am still writing down a lot of what you said and we will utilize it in terms of what we do in Congress.

Yes.

Ms. SMITH. My name is Matilda Smith. I live in Brick.

Questions that come up today were wonderful and are appreciated, all of them, and the answers. However, in this very building you can get information. If you do not have it, go to the office. They will tell you where to go.

Mr. PALLONE. The Office on Aging.

Ms. SMITH. Really, how many bureaus, commissions, clearinghouses and what not do you need?

Mr. PALLONE. Well, let me say this. A lot of what we discuss—I am sure you are right and I know through the Office on Aging, you are right. But remember that a lot of the suggestions that were being made today were not necessarily for the government. A lot of them were also involved individuals or even getting private communities involved as well.

Whenever you talk about a new government agency or a new government office, it is always the question of whether you are going to duplicate services or what the cost is going to be.

So I know that a lot of suggestions were made here today. And frankly, given current budgetary problems, we are not going to see too many new programs or new offices created. But there are times when you can create a clearinghouse or you can create some kind of a new situation or new agency or office, whatever, that does have a positive purpose. And we do have to look at it.

The one thing that I really think would be good in New Jersey, and, again, I am not in the State Legislature, I do not know if they can afford it, and certainly with the current situation. But this idea of having a protective service agency I think is helpful. I know that in Monmouth County that Protective Services For The Elderly does do a lot. And they are not totally government funded either. They also do get a lot of funds from private agencies, from the Monmouth County Family and Children Service. And they also charge fees if people can afford it. So it is not just a question of the government necessarily pumping money into it. A lot of it comes from private donations or fees.

Okay. Well, if there are not any questions——

Yes.

Mr. NAZZARO. This may not be pertaining to where to go or what, but this is my own personal experience. And you are going to be surprised what it is.

In 1974 I was brought up to the Leahy Clinic.

Mr. PALLONE. In Boston.

Mr. NAZZARO. Yeah. And fortunately I come out of it all right. Then I got home. I started getting correspondence from the—I was in the New England Baptist Hospital because nobody stays in the clinic. It worked through the clinic but nobody stays there. So when I got home I started getting correspondence and telephone calls from the hospital saying I owed them \$3450 for the surgery.

So I went to Blue Cross and Blue Shield in Newark. They insisted that the Leahy Clinic should fill out a New Jersey form to get compensated. So talking back and forth. God bless that young girl up in the office in the hospital. She called me at 5:30 at night thinking I was coming home from work. And she told me that they had a year's backlog on Blue Cross and Blue Shield of New Jersey. And the head of the Billing Department, she told me this. I called the vice president of Blue Shield, so help me God as I am standing here, I wrote a letter to him. Of course, I was going to be booked for \$3450. And two days later his secretary called me and admitted there was a year's backlog on the Leahy Clinic cases from Blue Shield of Newark and they sent me half of my money and they were going to send me the other half when they straightened out the accounts.

Mr. PALLONE. Okay.

Mr. NAZZARO. That was my own personal——

Mr. PALLONE. How long ago was this?

Mr. NAZZARO. 1974.

Mr. PALLONE. Okay. All right. We need your name again?

Mr. NAZZARO. What?

Mr. PALLONE. We need your name.

Mr. NAZZARO. James Nazzaro.

Mr. PALLONE. And spell the last name?

Mr. NAZZARO. N-A-Z-Z-A-R-O.

Mr. PALLONE. Okay. Again, you know, I do not want to get too far afield from some of the things that are the purpose of the hearing, but I did want to say one thing.

If anything, the situation with reimbursements and with the carriers has gotten worse, which I am sure a lot of you know.

Mr. NAZZARO. The reason why I am saying this is imagine all them other people that accepted that they had to pay.

Mr. PALLONE. I understand. Right.

But we have had—I will just end with this I think because I do not want to get away from the original purpose of the hearing, but we have had tremendous problems just in the last two years that I have been in Congress with reimbursement, because as you may know, we now have Pennsylvania Blue Shield—Blue Cross and Blue Shield as the carrier in New Jersey. We have had tremendous problems with them.

A person in my DC. office, Lisa Sevier, spends a tremendous amount of her time just dealing with the problems that doctors, as well as seniors, have had just getting reimbursement. And it is to the point now where we are wondering whether or not it can ever be corrected and whether or not the carrier perhaps should be changed.

All right. I am going to take one more question and then we are going to conclude because we promised everybody we would be done by approximately one.

Yes. And give us your name again.

Mrs. DANA. Mrs. Dana, Toms River.

Mr. PALLONE. D-A-N-A?

Mrs. DANA. Correct.

Mr. PALLONE. First name?

Mrs. DANA. Angela.

Mr. PALLONE. Okay.

Mrs. DANA. I would like to know why Blue Cross and Blue Shield will pay for a nebulizer, a rental of \$100 a month, rather than buy the machine outright which would cost them between \$700 to \$900? Because this machine, which I have to use as a nebulizer for asthma, severe asthma, and it is battery operated. And I called them up and they said, no, they would rent it for \$100 a month but they will not purchase it outright. And I feel this is outrageous. Because I will need this for a lifetime. Why should taxpayers, which my family is in business and they all pay taxes and they were outraged that they would have to pay \$100. Blue Cross will allow \$100 a month but will not pay for it outright which in 9 months it would be paid.

Mr. PALLONE. Okay.

Mrs. DANA. And I would be the owner.

Mr. PALLONE. All right. We are going to have to look into this in my office. We have got your name. Jim will look into it. Because I know there are a lot of problems like that and we deal with them everyday. And we will look into it.

Let me just conclude the hearing. First of all, I want to thank the people who came to present testimony. The Lieutenant and the other gentleman, Mr. Tumminello. I appreciate both of you coming. And Mr. Chalfant as well.

And I also wanted to thank John Olinger, who is our Staff Director, coming from DC. for the hearing, as well as the other Mr. McCann. Is it Mike McCann, who has been transcribing the testimony today and your questions.

Just so you understand, what we do with this material—I mean obviously I listen to everything and use it in terms of deciding what to do as your Congressman and what legislation to sponsor or co-sponsor or to vote for. But beyond that, the Select Committee on Aging and the Subcommittee on Human Services will use the information. It will be transcribed. The report is made available for the public and the information we use in our deliberations in terms of deciding what the committee should do, what we should do in terms of legislation as well as dealing with Federal agencies.

So what happened today goes beyond this room in terms of the impact and the way it is used. It is actually used for national purposes.

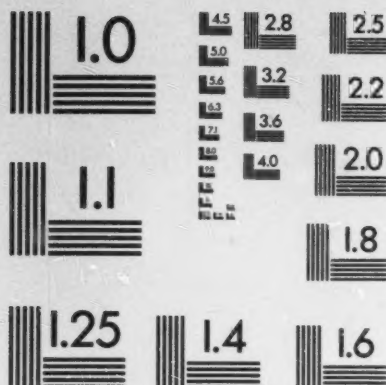
But I want to thank all of you for coming. I thought it was very interesting. And have a good day. Thank you.

[Whereupon, 1:10 p.m., the hearing was adjourned.]

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